

IN THE UNITED STATES FEDERAL DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE: THE FINANCIAL OVERSIGHT
MANAGEMENT BOARD FOR
PUERTO RICO

as representative of THE
COMMONWEALTH OF PUERTO
RICO

DEBTOR

CASE NO. 17-BK- 3283-LTS

TITLE III

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U.S. DISTRICT COURT
SAN JUAN, P.R.

MOTION REQUESTING TO VACATE JUDGMENT (DOCKET 600) FOR FRAUD
UPON THE COURT AND OTHER RELIEFS

Comes Now, JAVIER MANDRY-MERCADO, pro se, and co-owner of the lands object to the state case mentioned in Docket 305, hereby declares and requests this Court to: 1) Vacate judgment (Docket 600) derived from motions (Docket 305 and 557) and order to file new ones with the correct notice of appearance; 2) Grant reasonable lawyer costs for this motion.; 3) Grant third-party standing regarding other relevant state claim; 4) Grant leave to file a cross-claim regarding the fraudulent debt and other federal reliefs; 5) To issue a fine to Counsel Vicens-Rivera for her intentional misrepresentation of important material facts from this Court regarding the parties to the claim.

AFFIDAVIT OF JAVIER MANDRY-MERCADO

Javier Mandry-Mercado, duly sworn states:

1. My name is Javier Mandry-Mercado. I am over 18 years of age and reside in Ponce, Puerto Rico. I am fully competent to I am fully competent to make this affidavit and have personal knowledge of the facts stated in this affidavit. To my knowledge, all the facts stated are true and correct.

9. Counsel stated falsely that the members hired her. I am a member (co-owner) but I did not hire her. [This misrepresents “members” as “all”, when truthfully could be “some” or even “most,” but definitely not “all.”]
10. The only estate that is currently on probate is the one belonging to my late father, Salvador Mandry, which is shown in Exhibit A [Docket 305], and listed as Sucn. Salvador Eduardo Mandry-Nones 20.90% share. [“Sucn” is short for “Estate” in English] I am heir of the Sucn. Salvador Mandry per his will.
11. Despite being an indispensable party to the state claim, the parties (plaintiffs of state claim) have moved the court to disqualify me as litigant, and violate my Faretta rights, to be able to manipulate without opposition the proceedings, resulting in a judicial categorical taking which violates legislative intention.
12. The manipulation of the state inverse condemnation claim consists of various acts, but among the most important was to move the court to avoid using the definitions of the law (Law 227-2008)², which as referenced to the parent law (Law 150-1988)³, requires that a natural reserve to be declared as such by the Planning Board, not the Court. Also, the lawyers stipulated a material fact that was a conclusion of law that stated that it was not necessary for the Planning Board to review the case because it was categorical. Because of this, the entire case was resolved in a summary judgment motion, depriving me of my right to interrogate the witnesses, and considered part of due process for a claim of this kind. Other methods were also used such as improper use of opinion evidence as if it were an expert witness and improper use of summary judgment and judicial notice.
13. Despite having informed the state judge, he seemed unmoved which is alarming, so I suspect that the fraud involves high-ranking officials at the Department of Justice of Puerto Rico and the Head of Permits of Municipality of Ponce, among others.

² ANNEX 1

³ ANNEX 2

BRIEF DISCUSSION


My standing on the matter arises from the fact that I am indispensable party to the state claim. Because of this, I am also an indispensable party of the relief requested in Docket 305. A hereditary mass, although like an Estate, has been adjudicated, but cannot be represented as a legal entity per the laws of Puerto Rico; All the individuals were necessarily required to be joined for this Court to have issued a judgment. The occurrence was not a mistake, but the contrary, a type of manipulation that it commonly done to me, and reason why I have already filed a claim against the opposing party in federal court. Counsel was supposed to list all the property owners, individually, in the form of appearance. Not doing so means that were never joined, causing the Court to issue a judgment against a fictitious party. Unfortunately, this was done to represent me without my knowledge and that of this Court, all by means of manipulation of judicial procedure, evidence and due process; For reasons like the one in the instant case, I have been forced to self-represent myself to prevent it, although my background is in engineering and business.

In terms of the relief provided, in the merits, I object to granting relief from the automatic stay because to allow the case to continue in state court violates my property rights, so I wish to request an alternate remedy which not only defends the Commonwealth's interests, but also my own. This, because the case was subject to manipulation that did not allow a temporary taking to be considered, and the eight years of moratoria are already over this year. This means that once resolved the bad judgment, a declaratory relief would be needed to resolve the judicial mishap. The Ponce Court determined that the entire two lots should be declared a categorical taking. An extension of this 8-year timeframe is in deprivation of my property rights as owner, per state law. Because the state inverse condemnation claim is in deprivation of my property rights, federal law requires that were due process rights are a requisite. The judge, because I did

attempting review the case with a cause of action of fraud in state court would be futile with the “wolves”, considering the dollar-amount and the vested interests that I do not care for. I have other plans for my land than to benefit corruption by mere silence⁶, which would make me an accessory to fraud.

Wherefore, this hereby requests this Court: 1) Vacate judgment (Docket 600) derived from motions (Docket 305 and 557) and order to file new ones with the correct notice of appearance; 2) Grant reasonable lawyer costs for this motion.; 3) Grant third-party standing regarding other relevant state claim; 4) Grant leave to file a cross-claim regarding the fraudulent debt and other federal reliefs; 5) To issue a fine to Counsel Vicens-Rivera for her intentional misrepresentation of important material facts from this Court regarding the parties to the claim.

Dated: July 11, 2017



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Plaintiff

⁶ I have been witness to quite a few judicial actions that defy all laws of logic. Supervision of the Courts is essential.